IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 32221 of 2007(J)

OP.(Succession) 21/2002 of MUNSIFF COURT,VARKALA

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PETITIONERS:

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1. SUMA SREEKANTAN, W/O.SREEKANTAN,
   AMRUTHA, PRESIDENT JUNCTION,
   VADASSERIKONAM PO,
   OTTOOR VILLAGE.

2. NISHA SREEKANTAN,
   D/O.SREEKANTAN, -DO -DO-

3. KRISHNAKUMAR, S/O.SREEKANTAN,
   -DO- -DO-

4. SIVEKUMAR, S/O SREEKANTAN,
   -DO- -DO-

BY ADV. SRI.DINESH R.SHENOY

RESPONDENT:

K.SWAYAMPRABHA, D/O. KOCHUKRISHNAN,
VIJAYALEKSHMY BHAVAN, PERETTIL,
MOONGODE PO, OTTOOR VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.32221 of 2007

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Dated this the 30th day of October, 2007.

JUDGMENT

This Writ Petition is filed against the order of the Munsiff, Varkala whereby the learned Munsiff has directed to furnish security for the amount of 3rd and 4th minor petitioners and for the amount of the counter petitioner deducting the court fee to be paid to the share of the counter petitioner. Petitioners are the widow and children of late Sreekantan and the counter petitioner is the mother.

2. Sreekantan while employed in Gulf died on 3.2.2001. He did not leave any Will and therefore the four petitioners and the counter petitioner are entitled to one out of five shares each in the amount that is to be received by Sreekantan. The amount involved is Rs.12,96,370/-.

3. Now, the grievance of the petitioners is that they cannot furnish security for the amount as they are not having any sufficient fund with them nor there is anybody to help them to

furnish security on their behalf. The poor widow and children and the mother are awaiting the disbursement of the amount and the death has taken place as early as in 2001. One cannot find fault with the learned Munsiff for directing to furnish security because it is a mandate provided under Section 375 of the Indian Succession Act. The purpose of furnishing security is to ensure that the amount due to the minors and the mother are reaching them properly and it is not misused by the other petitioners. Going by the age shown in the succession petition, the third petitioner also must have attained majority by this time. Therefore, the security is necessary only for the fourth petitioner and the counter petitioner, since the widow is authorised to receive the amount.

4. Learned counsel for the writ petitioners submitted that when a power of attorney is executed in favour of the Indian Consulate, Dubai they will receive the amount and hand it over to the District Collector of the concerned District where the party resides and then the Collector can be ordered to disburse the amount or appropriate direction be given in that regard. I feel that the methodology suggested is acceptable with one

modification that the Collector can be directed to deposit the amount before the court below and the court can disburse the amount to all concerned except the fourth respondent, who is minor and therefore the amount has to be deposited in a Nationalised Bank till he attains majority.

5. Therefore, the order passed by the Munsiff, Varkala is modified as follows: Instead of directing to furnish security for the amount, the first petitioner, viz., the widow is directed to execute a power of attorney in favour of the Indian Consulate, Dubai to receive the amount on behalf of her and transmit the same to the District Collector, Thiruvananthapuram, who in turn will deposit the amount before the court below in O.P. (Succession) No.21 of 2002 and thereafter the court to disburse the amount due to the respective parties and make deposit of the amount due to the minor in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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